

Message Text

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C O N F I D E N T I A L STATE 122742

E.O. 11652: GDS

TAGS: MARR, TH

SUBJECT: TAX EXEMPTIONS FOR U. S. MILITARY CONTRACTS
IN THAILAND

REFS: (A) COMUSMACTHAI 021056Z MAY 74

(B) COMUSMACTHAI 210416Z MAY 74

(C) DEF 4734, 291441Z MAY 74

(D) COMUSMACTHAI 311054Z MAY 74

(E) CINCPAC 010312Z JUN 74

(F) STATE 072776, APR 18, 1973

(G) BANGKOK A-331, AUG 23, 1972

(H) BANGKOK 5224, MAR 29, 1974

1. REF A REPORTS DECISION BY RTG TO WITHDRAW TAX EXEMPTION

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PRIVILEGES ENJOYED BY U.S. INVITED CONTRACTORS IN THAILAND.

ALTHOUGH RTG IS WILLING "TO NEGOTIATE THE DETAILS ATTENDANT TO THIS DECISION." REF A FURTHER INDICATES THAT RTG MAY AGREE TO CONTINUE CURRENT STATUS FOR TECH REPS BUT THAT LARGE SERVICE CONTRACTS SUCH AS FACILITIES ENGINEERING AND O&M CONTRACTS CAN BE CONTINUED ONLY ON A TAXABLE BASIS AFTER EXPIRATION OF CURRENT CONTRACT. AS INDICATED IN REF A, RTG PURPOSE IS TO CAUSE U.S. TO SHIFT TO THAI-REGISTERED COMPANIES, WITH INCREASED THAI CAPABILITIES AND REVENUES. REFS B THROUGH B CONCERN LATEST DEVELOPMENTS THIS SUBJECT, INCLUDING SCHEDULED MEETING WITH RTG AGENCIES ON JUNE 5.

2. REF F EXPRESSED AGREEMENT IN PRINCIPLE OF DEPARTMENT AND DOD WITH EXPRESSED RTG INTEREST IN DEVELOPMENT AND EXPANSION OF THAI CAPABILITIES, AND INDICATED THAT DOD WOULD COOPERATE IN EFFORTS TO INCREASE CONTRACT AWARDS TO THAI FIRMS ASSUMING THEY ARE BOTH QUALIFIED AND COMPETITIVE. OUR WILLINGNESS TO INCREASE UTILIZATION OF THAI CONTRACTORS, HOWEVER, WAS ON UNDERSTANDING THAT RTG WOULD, CONSISTENT WITH PRIME MINISTER'S LETTER OF AUGUST 11, 1972 (REF G), CONSIDER ON INDIVIDUAL BASIS REQUESTS FOR TAX EXEMPTIONS ON CONTRACTS AWARDED TO THAI FIRMS. WE ALSO ASSUMED, IN VIEW OF STATEMENT IN PRIME MINISTER'S LETTER THAT "THE PRESENT ARRANGEMENT CONFERS MUTUAL BENEFITS ON THE U. S. AND THAILAND," RTG WOULD CONTINUE TO ACCORD TAX EXEMPTIONS TO U.S. INVITED CONTRACTORS. WE ARE THEREFORE CONCERNED OVER IMPLICATION IN RTG DECISION REPORTED REF A THAT NOT ONLY WILL RTG NO LONGER ACCORD TAX EXEMPTIONS TO U. S. INVITED CONTRACTORS, NEITHER WILL IT CONSIDER GRANTING ANY TAX RELIEF TO THE USG IN CONNECTION WITH CONTRACTS AWARDED TO THAI FIRMS (I.E., RTG WILL NOT GRANT ANY FORM OF TAX RELIEF IN CONNECTION WITH U. S. MILITARY PROCUREMENT OF GOODS AND SERVICES IN THAILAND).

3. FROM USG POINT OF VIEW, TAX RELIEF FOR USG DEFENSE EXPENDITURES IN THAILAND IS MORE SIGNIFICANT ISSUE THAN DEGREE OF UTILIZATION OF THAI CONTRACTORS. POINT MUST BE CLEARLY UNDERSTOOD BY ALL CONCERNED THAT EXPRESSED INTENT OF U. S. CONGRESS THAT FUNDS APPROPRIATED FOR MUTUAL DEFENSE SHOULD NOT BE DIVERTED TO PAYMENT OF FOREIGN TAXES, A PRINCIPLE NOTED BY AMBASSADOR UNGER IN HIS CONFIDENTIAL

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LETTER OF AUGUST 4, 1972 (REF G) TO PRIME MINISTER KITTIKACHORN, APPLIES EQUALLY TO CONTRACTS WITH U. S. FIRMS AND CONTRACTS WITH FOREIGN FIRMS SINCE ULTIMATE BURDEN OF TAXES PAID BY CONTRACTORS WOULD BE BORNE BY USG. WE MUST, THEREFORE, MAKE EVERY EFFORT TO ACCOMMODATE THAI DESIRES FOR MAXIMUM UTILIZATION OF THAI CONTRACTORS IN RETURN FOR MAXIMUM POSSIBLE RELIEF FROM THAI TAXES AND DUTIES ON USG DEFENSE EXPENDITURES, WHETHER EFFECTED THROUGH

CONTRACTS WITH U. S. OR THAI FIRMS. (OF COURSE WE WOULD HAVE NO OBJECTION TO U. S. CONTRACTORS REGISTERING AS THAI FIRMS PROVIDED THEIR TAX EXEMPTIONS WERE CONTINUED.

4. WE UNDERSTAND THAT PRIMARY OBSTACLE TO GREATER UTILIZATION OF THAI CONTRACTORS IS LACK OF QUALIFIED THAI SUPERVISORY AND TECHNICAL PERSONNEL IN CERTAIN POSITIONS. SECURITY CLEARANCES ALSO POSE A PROBLEM IN SOME INSTANCES, AND THERE IS CONCERN OVER MAINTAINING COMPETITIVENESS. ONE POSSIBLE SOLUTION TO PROBLEM COULD BE TO USE PRIME CONTRACTS WITH U. S. FIRMS WHERE ABSOLUTELY REQUIRED FOR SUPERVISORY OR TECHNICAL REASONS WITH MAXIMUM USE OF

SUBCONTRACTS WITH THAI FIRMS FOR PERFORMANCE OF ALL NON-SUPERVISORY AND NON-TECHNICAL FUNCTIONS OF THE PRIME CONTRACT. THIS SHOULD RESULT IN SUBSTANTIAL REDUCTION OF NUMBER OF U. S. INVITED CONTRACTOR PERSONNEL IN THAILAND IF NOT IN REDUCTION OF CONTRACTS WITH U. S. FIRMS, AND SHOULD INCREASE NUMBER OF CONTRACTS WITH THAI FIRMS ALTHOUGH IN FORM OF SUBCONTRACTS. A CLAUSE COULD BE INCLUDED IN CONTRACT REQUIRING U. S. CONTRACTOR TO SUBCONTRACT TO THAI FIRMS A STATED PERCENTAGE OF WORK UNDER THE CONTRACT (E.G., 75, 80, ETC.). THUS, UNDER THIS APPROACH U. S. CONTRACTORS WOULD BE UTILIZED ONLY IF NO QUALIFIED THAI PRIME CONTRACTORS AVAILABLE, AND SUBJECT TO CONDITION THAT MAXIMUM POSSIBLE WORK BE SUBCONTRACTED TO THAI FIRMS. COMPETITIVE CONDITIONS AMONG THAI FIRMS SHOULD BE MAINTAINED TO MAXIMUM EXTENT POSSIBLE. IT IS RECOGNIZED THAT EXECUTION OF THIS CONTRACTING PROCEDURE WOULD HAVE TO BE CAREFULLY PLANNED IN ORDER TO AVOID UNACCEPTABLE INCREASES IN COST.

5. REQUEST THAT COUNTRY TEAM SUBMIT TO DEPARTMENT AND DOD
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ITS VIEWS ON FEASIBILITY OF PROPOSAL FOR UTILIZATION OF THAI CONTRACTORS AND SUBCONTRACTORS DESCRIBED IN PARA 4 ABOVE AND ITS RECOMMENDATIONS ON ANY ALTERNATIVE MEANS OF ACCOMMODATING RTG DESIRES FOR INCREASED USE OF THAI CONTRACTORS WHILE OBTAINING MAXIMUM POSSIBLE TAX RELIEF ON U. S. DEFENSE EXPENDITURES IN THAILAND. IN PREPARING COMMENTS AND RECOMMENDATIONS COUNTRY TEAM SHOULD BEAR IN MIND NECESSITY OF RESISTING RTG EFFORTS TO TAX U. S. DEFENSE EXPENDITURES, AND THAT WE MUST THEREFORE BE AS FORTHCOMING AS POSSIBLE IN OUR EFFORTS TO UTILIZE THAI CONTRACTORS. IN DEVELOPING RECOMMENDATIONS, CONSIDERATION SHOULD BE GIVEN TO WRITING PROVISIONS INTO NEW CONTRACTS REQUIRING OR ENCOURAGING THE REPLACEMENT OF U. S. CONTRACTOR PERSONNEL WITH THAI EMPLOYEES. IN THIS REGARD, IT SHOULD BE RECOGNIZED THAT IF A SITUATION EXISTS WHERE

NO QUALIFIED THAI CONTRACTORS ARE AVAILABLE EVEN AW
SUBCONTRACTORS TO PERFORM REQUIREMENTS OF A PARTICULAR
CONTRACT, THE USG MUST AT LEAST BE PREPARED TO DEMONSTRATE
TO RTG THAT U. S. INVITED CONTRACTORS ARE EMPLOYING MAXI-
MUM POSSIBLE NUMBER OF THAIS AND MINIMUM POSSIBLE NUMBER
OF U. S. CITIZENS. IN MEANTIME, AMBASSADOR SHOULD SEEK
EARLIEST POSSIBLE APPOINTMENT AT HIGHEST APPROPRIATE LEVEL
OF RTG (WE SUGGEST MINISTER OF FOREIGN AFFAIRS OR EVEN
PRIME MINISTER) AND MAKE DEMARCHE ALONG FOLLOWING LINES:
(A) EXPRESS GREAT CONCERN OF USG OVER ANNOUNCED
INTENTION OF THAI CABINET, AS STATED IN KRIANGSAK LETTER
OF APRIL 18, TO WITHDRAW TAX EXEMPTIONS OF U. S. INVITED
CONTRACTORS.

(B) REAFFIRM THE IMPORTANCE USG ATTACHES TO TAX
RELIEF FOR USG DEFENSE EXPENDITURES, A POLICY WHICH IS
BASED ON EXPRESSED INTENT OF U. S. CONGRESS THAT FUNDS
APPROPRIATED FOR MUTUAL DEFENSE SHOULD NOT BE DIVERTED
TO PAYMENT OF HOST COUNTRY TAXES. THE EXTENT OF TAX
RELIEF ACCORDED U. S. DEFENSE EXPENDITURES IN FOREIGN
COUNTRIES IS UNDER CONSTANT SCRUTINY BY THE GENERAL
ACCOUNTING OFFICE, AN AGENCY OF CONGRESS, AND THE REFUSAL
OF THE RTG TO ACCORD USG TAX RELIEF ON THESE EXPENDITURES
WOULD VERY LIKELY RESULT IN ADVERSE CONGRESSIONAL REAC-
TION WHICH COULD AFFECT MAP AND OTHER US. ASSISTANCE
PROGRAMS IN THAILAND.
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(C) EMPHASIZE THE VALUE TO THAILAND OF U. S. MILITARY
AND ECONOMIC ASSISTANCE PROGRAMS AS WELL AS THE
CONTRIBUTION TO THE THAI ECONOMY OF LOCAL PROCUREMENT OF
GOODS AND SERVICES BY THE U. S. FORCES AND PERSONAL SPENDING
BY U. S. MILITARY AND CIVILIAN PERSONNEL (INCLUDING
U. S. INVITED CONTRACTOR PERSONNEL).

(D) CALL ATTENTION TO THE PRIME MINISTER'S LETTER
OF AUGUST 11, 1972 (REF G), WHICH USG HAS REGARDED AS
COMMITMENT OF RTG TO CONTINUE TAX RELIEF ENJOYED BY U. S.
INVITED CONTRACTORS AND CONSIDER ON AD HOC BASIS OTHER
REQUESTS BY USG FOR TAX RELIEF, SUCH AS RELIEF FROM TAXES
ON PROCUREMENT BY U. S. FORCES OF GOODS AND SERVICES
FROM THAI FIRMS. IN THIS REGARD, THE CONGRESSIONAL MAN-
DATE AGAINST PAYMENT OF FOREIGN TAXES ON USG DEFENSE
EXPENDITURES APPLIES EQUALLY TO CONTRACTS WITH U. S. FIRMS
AND CONTRACTS WITH FOREIGN FIRMS. THUS, THE AVAILABILITY
OF TAX RELIEF FOR U. S. DEFENSE PROCUREMENTS FROM BOTH
U. S. AND THAI SOURCES WOULD FACILITATE THE AWARE OF MORE
CONTRACTS TO QUALIFIED THAI FIRMS.

(E) INDICATE READINESS OF REPRESENTATIVES OF EMBASSY
AND MAC THAI TO MEET WITH RTG REPRESENTATIVES AND DEVELOP
MUTUALLY ACCEPTABLE PLAN FOR INCREASED UTILIZATION OF THAI
CONTRACTORS ON TAX EXEMPT BASIS WHICH WOULD ALSO ALLOW
CONTINUATION OF TAX EXEMPTIONS FOR TECH REPS AND ESSENTIAL
U. S. INVITED CONTRACTORS. SISCO

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